

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

Open Session

September 14, 2005

A duly called Regular Meeting of the Board of Water Commissioners was held Wednesday, September 14, 2005 beginning at 9:24 a.m. in the Board Room, Room 309, 1600 West 12th Avenue, Denver, Colorado. Members of the Board present during the Regular Meeting were:

William R. Roberts, President
George B. Beardsley, First Vice President
Richard A. Kirk, Vice President

Board employees and others present during portions of the Meeting were:

H. J. Barry, Manager
P. L. Wells, General Counsel
D. B. LaFrance, Director of Finance
E. E. Pokorney, Director of Planning
L. Firth, *Acting* Director of Public Affairs
B. D. Good, Director of Operations & Maintenance
J. L. Diebel, Director of Engineering
C. R. Dermody, Director of Information Technology
C. Elam-Floyd, Manager of Human Resources
A. T. Spaulding, Manager of Purchasing
G. T. Malmberg, Sales Administrator
K. Kempke, Manager of Treasury Operations
S. Renouf, Community Affairs Specialist
M. L. Walker, Attorney
H. C. Teigen, Chief of Distribution and Property Management
M. D. Waage, Water Resource Engineer
J. M. Barbier, Engineer
J. Gonzales, Customer Care
L. Kendrick, Customer Care
P. Miller, Manager of Customer Care
G. C. Fisher, Chief Planner
K. D. Kuykendoll, Finance
E. V. Gardener, Manager of Water Conservation
E. E. Weams, Maintenance Supervisor
M. West, Fleet Services

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M. McAllister, Public Affairs
Dave Romero, Denver Parks and Recreation
Deb Pilon, Willows Water District
Duane Tinsley, Southgate Water & Sanitation District
Walt Pettit, Wheat Ridge Water and Sanitation District
Pat Fitzgerald, Distributor's Liaison Representative, Platte Canyon Water
and Sanitation District and Southwest Metropolitan Water and
Sanitation District
Joe Waters, Denver
Bart Miller, Western Resource Advocates
Taryn Hutchins-Cabibi, Western Resource Advocates
Kevin Natapow, Colorado Environmental Coalition
Kevin Iverson, Cherry Hills Village Resident
James Legan, Citizens' Advisory Committee
Sara Aufderhar, Clean Water Action
David Snyder, Littleton
John Forney, Cherry Creek Valley Water and Sanitation District
Joseph Herberger, Denver
Rebekah Wilson, Denver
Eugene Y. Tepper, Denver
Glenn Hill, Denver

Media

Chad McKelvey, photographer, Channel 2
Don Stevenson, photographer, Channel 4
Mike Flannigan, photographer, Channel 7
Josh Hans, photographer, Channel 31
Jerd Smith, reporter, Rocky Mountain News
Kim McGuire, reporter, Denver Post

Commissioner Beardsley called the meeting to order.

Upon motion regularly made, seconded and unanimously carried,
Commissioners Gougeon and Maes were found to be absent for substantial cause and
were excused.

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Upon motion regularly made, seconded and unanimously carried, the reading of the Minutes of the Regular Meeting of August 10, 2005 was dispensed with and such Minutes were approved.

Upon motion regularly made, seconded and unanimously carried, the Minutes of the Executive Sessions of August 10, and August 24, 2005 were approved.

Commissioner Beardsley explained that the Board would be shortening its action agenda because of Commissioner Robert's need to leave early.

Upon motion regularly made, seconded and unanimously carried by the Commissioners then present, unless otherwise noted, the Board acted upon the following agenda items:

1. **ITEM V-A-1: RECOMMENDED ADJUSTMENT TO WATER RATES FOR 2006**

Mr. LaFrance explained that the Board needed to adjust water rates for the year 2006. Based on the 2006 cost of service rate study, Staff proposed changes in rate levels that would increase total revenue from water sales by approximately \$12 million. Staff prepared three alternative rate schedules, which were included in the Agenda and were presented at two public meetings. The meetings were held August 30 and 31, 2005 in Denver and Littleton respectively. Mr. LaFrance reported that at the Denver meeting, the attendees favored adoption of Alternative 3. At the Littleton meeting, attendees favored adoption of Alternative 1. Mr. LaFrance then described each of the Alternatives and their anticipated impact on residential water use.

Following Mr. LaFrance's presentation, Commissioner Beardsley asked for public comment. Commissioner Beardsley asked that public comments regarding the alternatives be kept to a minimum in order to honor Commissioner Roberts' need to leave.

PUBLIC COMMENT ON PROPOSED RATE MODIFICATION

Glenn Hill, a Denver resident, commented that it would be more appropriate to include the charges that are presently in the service charge in the block structure. Mr. Hill also asked that the Board work with other entities to address the need for water on a state-wide basis.

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Duane Tinsley, speaking on behalf of the Southgate Water & Sanitation District, complimented the Board on its efforts to address water supply issues during the drought. Mr. Tinsley opined that properties which paid a higher differential system development charge implicitly had additional supply reserved for their long term needs. Mr. Tinsley expressed the opinions that the Board should find a way to reward water users who had increased their efficiency, and water bills should not be related solely to lot size. In response to questioning by the Commissioners, Mr. Tinsley acknowledged that his remarks were intended to address issues involving the long-term design of rates.

Joe Waters, a Denver citizen, commented that large lot owners are already paying more for water because of the size of their lot. Mr. Waters opined that owners of larger lots use more water but don't necessarily waste water. Mr. Waters asked the Board to maintain its current block structure in order to give all users a chance to address water use as currently structured.

Bart Miller of Western Resource Advocates commented that his organization supported Alternative 3 and urged the Board to continue to create incentives for water users to use less water.

Doug Snyder asked that the Board adopt Alternative 3 and commented that the classification of all other users should relate to the number of units in a building rather than the size of the tap.

Commissioner Beardsley thanked members of the public for their comments and explained the Board will continue to work to develop stronger conservation oriented rate structures. Commissioner Beardsley commented the Board would continue to address its rate structure as additional information is available, especially with the new Customer Service Information System, but changes will take time.

Whereupon Commissioner Kirk moved and Commissioner Roberts seconded, adoption of Alternative 2 as the rate structure for the coming year. Commissioner Kirk noted that the rate study which will be underway starting in 2006 would assist the Board in determining how the rate structure should be modified, if at all, in the future. Whereupon, the Board unanimously adopted the Rate Schedules numbered 1, 2, 3, 4, 5, 7, and 8, Alternative number 2, as are more particularly described in Exhibit "A," attached to and incorporated in these Minutes for bills dated on or after January 1, 2006.

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2. **ITEM V-A-2: RESOLUTION CONCERNING BOARD GOALS AND GUIDANCE**

The Board postponed consideration of this matter to the September 28, 2005 meeting.

3. **ITEM V-A-3: RESOLUTION REGARDING AUTHORITY FOR MATTERS INVOLVING THE RETIREMENT PROGRAM**

Adopted the Resolution attached to and incorporated in these Minutes as Exhibit "B," delegating day-to-day governance matters regarding the retirement program to the Manager, based on recommendations of a committee to be formed by the Manager and co-chaired by the Director of Finance and the Manager of Human Resources, all as more particularly described in the attached Resolution.

4. **ITEM V-B-1: AGREEMENT FOR RECYCLED WATER SERVICE FOR MIRA VISTA GOLF COURSE**

This matter was postponed to the September 28, 2005 meeting.

5. **ITEM V-D-1: AUTHORIZATION OF SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT WITH DUNES INVESTMENT PARTNERS, LLC AND THE SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT**

Authorized the Second Amendment to Purchase and Sale Agreement with Dunes Investment Partners and the South Adams County Water and Sanitation District, providing for the deposit of an additional \$575,239 into the escrow account as payment for creation of an additional 259 acre-feet of storage capacity at the proposed Dunes Reservoir, all as more particularly described in the Second Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "C."

6. **ITEM V-D-2: AWARD OF CONTRACT FOR CONSTRUCTION OF WESTSIDE COMPLEX BUILDING NO. 5**

Authorized award of a contract to dcb Construction Company for construction of Building No. 5 at the Westside Complex, at a cost to the Board not to exceed \$346,990.

Mr. Barry explained the contractor will construct a 9,000 square foot prefabricated steel storage building with lights, power, and a fan ventilation system which is necessary to protect PVC pipe from sunlight.

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7. **ITEM V-D-3: CHANGE ORDER NO. 1 – KASSLER COMPLEX
DRAINAGE AND SITE IMPROVEMENT**

Authorized Change Order No. 1 to the October 13, 2004 contract with Quality Paving Company, Contract 07483A, increasing the amount of the contract by \$51,814.50, and extending the completion date to February 22, 2006, all as more particularly described in Change Order No. 1, a copy of which is attached to and incorporated in these Minutes as Exhibit "D."

8. **ITEM V-D-4: RATIFICATION OF CONSTRUCTION CONTRACT
CHANGE ORDERS AND AMENDMENTS TO AGREEMENTS**

Ratified Change Orders to Construction Contracts and Amendments to Agreements authorized by the Manager in August 2005 as follows:

- Change Order No. 1 to the Contract with T. Lowell Construction, Inc. for Installation of 60-inch butterfly valves and appurtenances in Conduit Nos. 13 and 25;
- Change Order No. 3 to the Contract with Landtech Contractors, Inc. for the Marston Treatment Plant landscape and irrigation renovations;
- Change Order No. 1 to the Contract with Arrow-J Landscape and Design, Inc. for the West Bellevue Reservoir and Pumpstation landscape and irrigation renovations;
- Change Order No. 1 to the Contract with Spiniello Companies for the 2005 pipe rehabilitation program;
- Amendment to the February 12, 2003 agreement with Bates Engineering, Inc. for design services for the Marston finished water improvement project; and
- Amendment to the January 1, 2005 agreement with Corporate Net Services, Inc. to provide IT consulting,

all as more particularly described in the Agenda Item V-D-4, dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "E."

9. **ITEM V-D-5: INTERGOVERNMENTAL AGREEMENT WITH
JEFFERSON COUNTY FOR THE CONSTRUCTION OF CONDUIT NO. 129**

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Approved an Intergovernmental Agreement with the County of Jefferson regarding the construction of Conduit No. 129 from Alkire Street to Quincy Avenue, at a cost of \$671,350, the funding for which will be reimbursed by the Willowbrook Water & Sanitation District, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "F."

10. **ITEM V-D-6: CHANGE ORDER NO. 2 – ELEVEN MILE OUTLET WORKS RENOVATION**

Authorized Change No. 2 to the May 11, 2005 contract with Glacier Construction, Inc., Contract No. 07490A, in the amount of \$71,295 and extending the time by 5 days, all as more particularly described in the Change Order, a copy of which is attached to and incorporated in these Minutes as Exhibit "G."

Mr. Diebel explained that during excavation for the new outlet works, soils contaminated with diesel fuel were encountered. The source of the contamination is unknown. The contractor was required to remove contaminated soil and replace it with imported fill and to raise the foundation of the electrical area for the transformers and standby generators.

11. **ITEM V-D-7: STUDENT EDUCATION AND RETROFIT PROGRAM**

This matter was postponed for consideration at the September 28, 2005 Board meeting.

12. **ITEM V-D-8: PURCHASE OF ADDITIONAL DATA STORAGE CAPACITY**

Approved the purchase of an HP EVA SAN, configured with 17.40 terabytes of storage, including three years annual maintenance and supports, from Lewan and Associates, for a total cost of \$192,015.

13. **ITEM V-D-9: EXTENSION OF CONTRACT FOR WASTE REMOVAL SERVICES**

Authorized extension of the September 16, 2003 contract with Waste Management of Colorado, Inc. (Contract No. 07352A) for waste removal services, through September 30, 2006, for an additional \$85,000 and a total amended contract not to exceed \$225,000.

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14. **ITEM V-D-10: DECLARATION OF SURPLUS PROPERTY AND APPROVAL OF A PURCHASE AND SALE AGREEMENT WITH SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT AND ADAMS COUNTY AT THE CAT RESERVOIR PROPERTY**

Declared three parcels of property located in the Northwest Quarter of Section 1, Township 3 South, Range 68 West of the 6th Principal Meridian, Adams County, Colorado, totaling approximately 40,554 square feet, and as more particularly described on Exhibit "H," attached to and incorporated in these Minutes, no longer useful for or required in the waterworks operations and authorized the sale of the described parcels for \$138,300, to the County of Adams, State of Colorado, for road purposes, all as more particularly described in the Purchase and Sale Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "I."

15. **ITEM V-D-11: AGREEMENT FOR CONDITION ASSESSMENT OF CONDUIT NO. 94**

Authorized entering into an agreement with the Pressure Pipe Inspection Company, Ltd. to conduct a remote field eddy current/transformer coupling inspection test of a 3.6 mile length of Conduit No. 94 from the Moffat Treatment Plant to West 35th Avenue and Pierce Street at a cost to the Board not to exceed \$103,000, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "J."

16. **ITEM V-D-12: ANNUAL CONTRACTS SCHEDULED TO RENEW IN THE FOURTH QUARTER**

Approved renewal and extension of the following annual contracts:

- Contract with Labware, Inc. to provide LIMS software through October 20, 2006, at a cost of \$33,500;
- Contract with Informatica Corporation to provide data analysis software through December 31, 2006, at a cost of \$16,500; and
- Contract with the City and County of Denver for the Safety Equipment Special Revenue Fund through December 31, 2006, at a cost of \$17,500

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all as more particularly described in Agenda Item V-D-12, dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "K."

17. **ITEM V-D-13: SIXTH AMENDMENT FOR CONSULTING SERVICES AT MILLER RESERVOIR**

Authorized entering into the Sixth Amendment to Consulting Services Agreement with Muller Engineering Company, Inc. for design of the reservoir embankment configuration for Miller Reservoir, at a cost to the Board of \$55,450, all as more particularly described in the Sixth Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "L."

18. **ITEM V-E-1: HUMAN RESOURCE CHANGES**

Approved the human resource changes set forth in Agenda Item V-E-1 dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "M," effective the pay period ending **August 26, 2005** unless otherwise noted.

19. **ITEM V-E-2: EMPLOYEES ELIGIBLE FOR REGULAR STATUS**

The following employees were classified as regular employees of the Board, with all rights and privileges thereof, effective **October 1, 2005**, unless otherwise noted:¹

Employee Name	Employment Date	Retirement Plan Participation Date Unless otherwise noted^	Division/Section
Ray Peterson	03/15/2005	03/15/2005	South Platte Area #530
**Cathleen Hassman	01/18/2005	01/18/2005	Distribution #250
**From 7/13/05 VE-2 – correction made to extend regular status to 10/01/05			

20. **ITEM V-E-3: ADOPTION OF REVISED PERSONNEL POLICIES - CHAPTERS 1-5**

This item was postponed for consideration at the September 28, 2005 meeting.

¹ Commissioner Roberts was excused from the meeting at the conclusion of the Agenda items.

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Commissioner Beardsley thanked the members of the public for their attendance at the meeting and for their forbearance in providing comments to the Board. Commissioner Beardsley then asked if there were matters for discussion which were not included on the Board's agenda.

PUBLIC COMMENT

In response to Commissioner's Beardsley's invitation, Doug Snyder, a member of the South Park Homeowner's Association, asked that the Board schedule a hearing regarding the allocation of water usage from taps at the South Park Homeowners Association. Mr. Snyder's position was that the Board had a responsibility for "abuse" of the taps when such use was not in conformity with the original tap papers. Mr. Snyder provided a copy of his letter dated September 13, 2005 to the Commissioners and a copy is attached to and incorporated in these Minutes as Exhibit "N."

Mr. Barry explained the issue of how to allocate billing among units in a homeowners' association was not a question to be addressed by Denver Water, but was instead to be addressed by the homeowners' association. After review of the circumstances, staff of Denver Water had previously determined there was not a misuse of the taps. Ms. Wells explained there is no hearing process for the homeowner to complain regarding the association's actions. A written response will be provided to Mr. Snyder.

21. **ITEM VI-C-1: DISCUSSION AND INFORMATION:
DROUGHT/CONSERVATION -- SUMMER USAGE REVIEW**

Mr. Pokorney and Mr. Waage went through the information provided in the "Summer Use and Supply Report" dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "O." The reservoir contents are slightly above normal, and because demand is lower than forecast, the anticipated April 1, 2006 contents are likely to fall within the median of April 1 reservoir contents, 80-85% of full.

22. **ITEM VI-F-1: DISCUSSION AND INFORMATION: STATUS OF THE
INVESTMENT PORTFOLIO**

The Commissioners received the report, "Denver Water Investment Portfolio as of August 31, 2005" as set forth in Agenda Item VI-F-1 dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "P."

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23. **ITEM VI-F-2: DISCUSSION AND INFORMATION: MANAGER'S OPERATION REPORT**

The Board was furnished with the Manager's Operation Report dated September 14, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "Q," which consists of the following individual items:

1. Status of Contract Work
2. Status of Consultant Services

24. **ITEM VI-F-3: DISCUSSION AND INFORMATION: BUDGET STATUS REPORT**

The Commissioners received the 2005 Budget Status Summary for the period ending **August 31, 2005**, a copy of which is attached to and incorporated in these Minutes as Exhibit "R."

25. **ITEM VI-G-1: SCHEDULING OF FUTURE BOARD MEETINGS**

The Board confirmed a Study Session will take place on **Wednesday, September 28, 2005**, at **9:00 a.m.** in the Board Room, Room 309, 1600 W. 12th Avenue, Denver, Colorado. The Board will take up consideration of Items postponed from the Regular meeting of September 14, 2005. In addition, the Board will discuss the proposed water conservation program for 2006, long range review of water rates and water rate structure, and the communication plan.

The Board confirmed that the regular meeting would take place on **Wednesday, October 12, 2005**, at **9:15 a.m.** in the Board Room, Room 309, 1600 W. 12th Avenue, Denver, Colorado.

No further business appearing, the Board voted unanimously to adjourn into Executive Session at approximately 10:12 a.m.

EXECUTIVE SESSION

On Wednesday, September 14, 2005, commencing approximately at 10:28 a.m. in the Manager's Office, located in the Administration Building, 1600 West 12th Avenue, Denver, Colorado, the Board of Water Commissioners met in Executive

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Session. The following matters which are authorized by C.R.S. § 24-6-402 or D.R.M.C. § 2-34 were discussed during the Executive Session:

1. Negotiations with Mira Vista Golf Course.
2. Matters involving the Colorado River.

There being nothing further for the Board to consider, the Executive Session concluded at approximately 11:40 a.m.

President

Secretary